

IN RE: PETITION FOR VARIANCE
W/S Old Eastern Avenue, 191' NE
of the c/l of Stemmers Run Road
(1606 Old Eastern Avenue)
15th Election District
5th Councilmanic District

Balasia Pengalis
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 96-201-A
*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance for that property known as 1606 Old Eastern Avenue, located in the vicinity of Back River Neck Road in Essex. The Petition was filed by the owner of the property, Balasia Pengalis, through Michael Pengalis, and the Contract Lessee, Eastern Cab Company, by Willie M. Kiker, through their attorney, John B. Gontrum, Esquire. The Petitioners seek relief from Section 426.1.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit tower-mounted antenna to not be enclosed within a fence or wall as required and to permit minimum setbacks of 155 feet and 190 feet in lieu of the required 200 feet for an existing wireless radio transmitting and receiving tower. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Willie Kiker, a representative of Eastern Cab Company, Contract Lessee, Clyde F. Hinkle, Professional Engineer with Bafitis and Associates, who prepared the site plan for this project, Gerard Schenning, and John B. Gontrum, Esquire, attorney for the Petitioners. There were no Protestants present.

Testimony and evidence offered revealed that the subject property consists of a gross area of 25,200 sq.ft. (0.578 acres, more or less)

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Date

By

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zoned B.L.-C.N.S. and is located on the west side of Old Eastern Avenue, just north of its intersection with Stemmers Run Road, immediately adjacent to the A-1 Crab House. The property is presently improved with a modular one-story office building and accessory parking lot. The property was formerly the site of the Thunderbird Drive-In fast food restaurant, which has long since been abandoned for some time. The Petitioner recently entered into a contract to lease the subject property to the Eastern Cab Company to operate its business from the existing modular building on the property. Testimony indicated that the subject property was proposed to be developed with a small strip shopping center; however, those plans did not come to fruition. The testimony and evidence presented at the hearing indicated that the use of the property by the Eastern Cab Company is on a limited basis until such time as the property can be more fully developed for commercial purposes. Testimony indicated that only five (5) cabs are stored on the property at any one time, and that all cabs are serviced off-site.

Further testimony revealed that the Eastern Cab Company relocated to the subject property approximately one year ago and that by agreement with Baltimore County, the instant Petition for Variance was filed to legitimize its operation on the site. It should also be noted that the Eastern Cab Company has operated in the Essex area for many years and that its previous location was almost directly across the street from the subject site, adjacent to the First Baptist Church. Due to an expansion of the Church, the Eastern Cab Company was forced to relocate its office. Fortunately, the subject lot was vacant and the Eastern Cab Company needed only to move across the street.

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Date 1/23/96
By [Signature]

As part of its business operations, the Eastern Cab Company must utilize a wireless transmitting and receiving tower to communicate with its drivers. Shortly after relocating to the subject site, the Petitioners erected an 85-foot tall tower in the northernmost corner of the property, adjacent to the one-story modular office building. Due to the height and location of this tower, the requested variances are necessary. Within the Petition for Variance, the Petitioners requested relief from Section 426.1 to permit tower-mounted antenna to not be located within a fenced or wall as required. Since their relocation to the site, the required fencing has been provided around the tower as more particularly shown on the site plan. Therefore, at the hearing, the Petitioners withdrew that portion of the variance request. As to the other relief sought, testimony indicated that strict compliance with the zoning regulations would have required the subject tower be located in close proximity to the restaurant on the adjoining property. The Petitioners testified that the proposed location of the tower maximizes its distance from neighboring D.R. zones and is less intrusive than if strict compliance were required.

On a site visit to the property, I found that the subject tower is barely visible from Old Eastern Avenue. Furthermore, given the size of the site, the proposed use by the Eastern Cab Company is minimal. No more than five (5) company vehicles will be stored on the property at any one time, all of which must be properly tagged and operable. There is only a small one-story modular office from which the Dispatcher will operate. As noted above, it appears from the testimony that the proposed use of the site by the Eastern Cab Company is limited until such time as the property can be more fully developed for commercial purposes. Therefore, I believe it appropriate to grant the variance as requested; however, I will restrict

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Date

By

the granting of these variances to ensure that the property is utilized to its greatest potential.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief; and,
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the pub-

lic health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 23rd day of January, 1996 that the Petition for Variance seeking relief from Section 426.1.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit minimum setbacks of 155 feet and 190 feet in lieu of the required 200 feet for an existing wireless radio transmitting and receiving tower, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their use permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.
- 2) The Petitioner is prohibited from storing any more than five (5) company cabs on the subject site. All cabs must be operable and properly tagged. Furthermore, the Petitioner is strictly prohibited from performing any automotive service work on these vehicles on the premises.
- 3) The variance for the radio tower are limited to the Eastern Cab Company, only. In the event the Eastern Cab Company should cease to operate its business from the premises, then the variance granted for this radio tower shall cease and terminate. Therefore, the variance shall not run with the land but is limited to the Eastern Cab Company, only.
- 4) Upon my inspection of the subject property, there appeared to be a small amount of junk and debris stored in the rear of the property. The Petitioner shall have all trash, junk and debris removed from the

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Date

1/23/96

By

Bp


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premises within fifteen (15) days of the date of this Order, or prior to the issuance of any use permit.

5) Inasmuch as the current use of the property is for a limited time, it will not be necessary for the Petitioner to submit a landscape plan for review and approval by the Landscape Architect for Baltimore County. However, at such time as the property is more fully developed, a landscape plan will be required.

6) When applying for any permits, the site plan and/or landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 426.1.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit tower-mounted antenna to not be enclosed within a fence or wall as required, be and is hereby DISMISSED AS MOOT.


TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

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Date

By



Baltimore County
Zoning Commissioner
Office of Planning and Zoning

Suite 112, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-4386

January 23, 1996

John B. Gontrum, Esquire
Romadka, Gontrum & McLaughlin
814 Eastern Avenue
Baltimore, Maryland 21221

RE: PETITION FOR VARIANCE
W/S Old Eastern Avenue, 191' NE of the c/l of Stemmers Run Road
(1606 Old Eastern Avenue)
15th Election District - 5th Councilmanic District
Balasia Pengalis - Petitioner
Case No. 96-201-A

Dear Mr. Pengalis:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in cursive script, reading "Timothy Kotroco".

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
For Baltimore County

TMK:bjs

cc: Mr. Balasia Pengalis
1612 Eastern Avenue, Baltimore, Md. 21221

Mr. Willie M. Kiker, Eastern Cab Company
1606 Old Eastern Avenue, Baltimore, Md. 21221

People's Counsel

File

203



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 1606 Old Eastern Ave.

which is presently zoned BL - CNS

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) ~~426.1 to permit tower mounted antenna~~ ~~not within a fence or wall as required.~~ Sec. 426.1b to permit a minimum setback of 155' and 190' in lieu of the required 200'.

TMK

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

Location of antenna as proposed maximizes distance from existing structures. Strict compliance with zoning regulations would place antenna in close proximity to restaurant facility in lieu of proposed less intrusive site location.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee

Eastern Cab Company

(Type or Print Name)

By: Willie M. Kiker,

Signature *Willie M. Kiker*

1606 Old Eastern Ave.

Address

Essex, MD 21221

City

State

Zipcode

Attorney for Petitioner

John B. Gontrum, Esq.

(Type or Print Name)

Ronaldka, Gontrum & McLaughlin, P.A.

Signature *John B. Gontrum*

814 Eastern Ave.

686-8274

Address

Essex, MD 21221

Phone No.

City

State

Zipcode

DROP-OFF
No REVIEW

11-9-95

UCR

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s)

Balasia Pengalis

(Type or Print Name)

Signature *Michael Pengalis (Exce)*

1612 Eastern Ave.

(Type or Print Name)

Signature

Address

Phone No.

City

State

Zipcode

Name, Address and phone number of representative to be contacted.

Name

Address

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates

Next Two Months

ALL

OTHER

REVIEWED BY:

DATE

ORDER RECEIVED FOR FILING

Date

By



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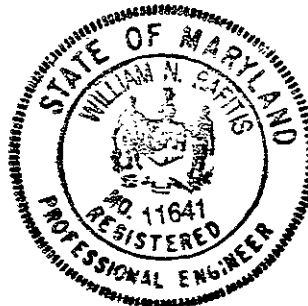
Bafitis & Associates, Inc.

203

ZONING DESCRIPTION
FOR 1606 OLD EASTERN AVENUE

Beginning at a point on the West side of Old Eastern Avenue, which is 80 feet wide, at the distance of 191' Northeasterly of the centerline of Stemmers Run Road, variable width. Thence the following courses and distances: North 66 24'28" West 180.00 feet, North 23 35'32" East 140.00 feet, South 66 24'28" East 180.00 feet, to the West side of Old Eastern Avenue, thence along said West side of Old Eastern Avenue South 23 35'32" West 140.00 feet to the point of beginning as recorded in Deed Liber 5456, Folio 636.

Containing 25,200 square feet or 0.578 acres of land. Being known as 1606 Old Eastern Avenue and located in the 15th Election District of Baltimore County, Maryland.



William N. Bafitis P.E., Md. Reg. #11641

5/24/95
Date

100-100000

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

96-201-17

District: 1374

Date of Posting: 11/27/95

Posted for: Lorraine

Petitioner: Rosalee Pengelly

Location of property: 1606 Old Eastern Ave

Location of signs: Signs and way are property being zoned &

Remarks:

Posted by: [Signature] Signature

Date of return: 12/1/95

Number of Signs: 1



NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case: #98-201-A
(Item 203)

1806 Old Eastern Avenue
NWS Old Eastern Avenue
191' N of of Stemme Run
Road

18th Election District

5th Councilmanic

Legal Owner(s):

Balasa Peripale

Contract Purchaser/lessee:

Eastern Cab Company

Hearing: Thursday, December

14, 1995 at 9:30 a.m. in Rm.

118, Old Courthouse.

Variance: to permit tower
mounted antenna not within a
fence or wall as required; and
to permit a minimum setback
of 165 feet and 150 feet in lieu
of the required 200 feet.

LAWRENCE E. SCHMIDT

Zoning Commissioner for

Baltimore County

NOTES: (1) Hearings are

Handicapped Accessible; for

special accommodations

Please Call 887-3353.

(2) For information concern-

ing the file and/or Hearing,

Please Call 887-3391.

11/271 Nov. 23, 018723

CERTIFICATE OF PUBLICATION

TOWSON, MD.,

Nov 30, 1995

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Nov 23, 1995.

THE JEFFERSONIAN,

A. H. Henrichs
LEGAL AD. - TOWSON

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 154382

DROP-OFF - NO RETURN
ITEM #203

DATE 11/0/95

ACCOUNT

001-6150

AMOUNT \$ 235.00 (WOR)

96-201-A

RECEIVED
FROM:

Willie Kiker Inc.

#020 (Variance) + #080 (Posting)
1606 Old Eastern Avenue

FOR:

25,200 sq. ft.

13c5

B.L.-C.N.S.

03A91#055810HRC

\$235.00

VALIDATION OR SIGNATURE OF CASHIER

DISTRIBUTION
WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

TO: PUTUXENT PUBLISHING COMPANY

November 22/23, 1995 Issue - Jeffersonian

Please forward billing to:

John B. Gontrum, Esq.
Romadka, Gontrum & McLaughlin, P.A.
814 Eastern Avenue
Essex, Maryland 21221
686-8274

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 96-201-A (Item 203)
1506 Old Eastern Avenue
NW/S Old Eastern Avenue, 191' N of c/l Steppers Run Road
15th Election District - 5th Councilmanic
Legal Owner: Balasia Pengalis
Contract Purchaser/Lessee: Eastern Cab Company

Variance to permit tower mounted antenna not within a fence or wall as required; and to permit a minimum setback of 155 feet and 190 feet in lieu of the required 200 feet.

HEARING: THURSDAY, DECEMBER 14, 1995 at 9:00 a.m. in Room 118, Old Courthouse.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

November 16, 1995

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 96-201-A (Item 203)
1606 Old Eastern Avenue
NW/S Old Eastern Avenue, 191' N of c/l Stemmers Run Road
15th Election District - 5th Councilmanic
Legal Owner: Balasia Pengalis
Contract Purchaser/Lessee: Eastern Cab Company

Variance to permit tower mounted antenna not within a fence or wall as required; and to permit a minimum setback of 155 feet and 190 feet in lieu of the required 200 feet.

HEARING: THURSDAY, DECEMBER 14, 1995 at 9:00 a.m. in Room 118, Old Courthouse.

A handwritten signature in cursive script, reading "Arnold Jablon".

Arnold Jablon
Director

cc: Balasia Pengalis
Eastern Cab Company
John B. Gontum, Esq.

- NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

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NOV 21 1995



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

December 7, 1995

John B. Gontrum, Esquire
Romadka, Gontrum, & McLaughlin, P.A.
814 Eastern Avenue
Essex, MD 21221

RE: Item No.: 203
Case No.: 96-201-A
Petitioner: Balasia Pengalis

Dear Mr. Gontrum:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on November 9, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,

W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold Jablon, Director
Zoning Administration and
Development Management
December 5, 1995

FROM: J. Lawrence Pilson
Development Coordinator, DEPRM

SUBJECT: Zoning Item #203 - 1606 Old Eastern Avenue
Zoning Advisory Committee Meeting of November 20, 1995

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item.

Air Quality

We request that the tower be enclosed within an 8' high fence to discourage trespassing and tower scaling by unauthorized individuals.

JLP:SR:sp

OLDEAST/DEPRM/TXTSBP

BALTIMORE COUNTY, MARYLAND
I N T E R O F F I C E C O R R E S P O N D E N C E

TO: Arnold Jablon, Director DATE: Nov. 29, 1995
Zoning Administration and Development Management

FROM: *RWB* Robert W. Bowling, P.E., Chief
Development Plans Review Division

RE: Zoning Advisory Committee Meeting
for November 27, 1995
Item No. 203

The Development Plans Review Division has reviewed the subject zoning item. If this Variance is granted, we recommend that a landscape plan be required.

RWB:sw

Handwritten signature



**Maryland Department of Transportation
State Highway Administration**

David L. Winstead
Secretary
Hal Kassoff
Administrator

11-22-95

Ms. Joyce Watson
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 203 (WCR)

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

for Bob Small
Ronald Burns, Chief
Engineering Access Permits
Division

BS/es

RECEIVED

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

Baltimore County Government
Fire Department



700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 11/20/95

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

LOCATION: DISTRIBUTION MEETING OF NOV. 20, 1995.

Item No.: SEE BELOW

Zoning Agenda:

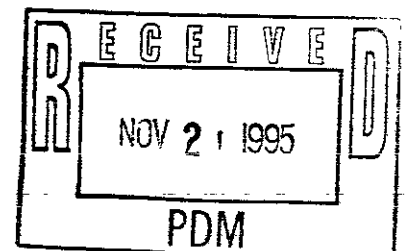
Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

8. The Fire Marshal's Office has no comments at this time,
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 194, 196, 197, 199, 200, 201,
202 & 203.

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Permits and Development
Management

DATE: November 17, 1995

FROM: Pat Keller, Director
Office of Planning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning has no comments on the following petition(s):

Item Nos. 196, 197, 198, 199, 200, 201, 203 and 204

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by:

Jeffrey Long

Division Chief:

Carol L. Kins

PK/JL



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

November 21, 1995

John B. Gontrum, Esquire
Romadka, Gontrum, & McLaughlin
814 Eastern Avenue
Baltimore, MD 21221

96-201-A

RE: Preliminary Petition Review (Item #203)
Legal Owner: Balasia Pengalis
Contract Purchaser: Eastern Cab Co.
1606 Old Eastern Avenue
15th Election District

Dear Mr. Gontrum:

At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. The plan was accepted with the understanding that all zoning issues/filing requirements would be addressed. A subsequent review by the staff has revealed unaddressed zoning issues and/or incomplete information. The following comments are advisory and do not necessarily identify all details and inherent technical zoning requirements necessary for a complete application. As with all petitions/plans filed in this office, it is the final responsibility of the petitioner to make a proper application, address any zoning conflicts and, if necessary, to file revised petition materials. All revisions (including those required by the hearing officer) must be accompanied by a check made out to Baltimore County, Maryland for the \$100.00 revision fee.

Your accompanying drop-off statement indicates that this plan had some form of prior review by myself. Regretfully, I have no recollection of this site plan. However, the following information was found to be in need of compliance or correction for zoning hearing site plan compliance.

1. Clarify the nature of the existing use. The use referenced on the plan is "parking lot and trailer". The contract purchaser/lessee is Eastern Cab Company. A cab company is considered (by Section 101, Baltimore County Zoning Regulations [BCZR] definition) a service garage.

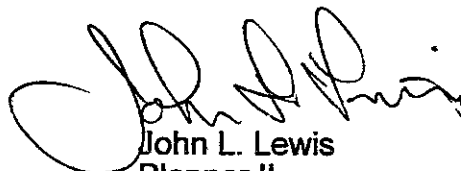


The B.L.-C.N.S. zoning requires a special exception public hearing for a service garage use. There is no zoning history to this effect on the plan nor is there any indication that a special exception is being requested. The potential for a zoning violation (existing or proposed) is such that unless this question is resolved clearly and definitely on the plan, staff cannot support the request for variance.

2. There is a 65-foot high wireless transmitting and receiving tower with a 85-foot antenna height shown on the plan, while the plan notes indicate the transmitting tower is proposed. Clarify this situation on the plan.
3. Per plan notes, a trailer permit was issued for this site in 1994, while a modular office is shown on the plan. Section 415.B (BCZR) permits trailers in a business zone only under certain conditions, which are not evident on the plan. Again, the potential for a zoning violation dictates BCZR compliance verification on the plan.
4. The variance request to allow deficient fence requirements is confused by the proposed 8-foot high stockade fence shown on the plan.
5. Note compliance with Section 426.1.C (BCZR) concerning EPA requirements on the plan.

If you need further information or have any questions, please do not hesitate to contact me at 887-3391.

Very truly yours,



John L. Lewis
Planner II
Zoning Review

JLL:scj

Enclosure (receipt)

c: Zoning Commissioner

203
11-9-95

DROP-OFF PETITION FOR VARIANCE

Petition for Variance for the Property located at 1606 Old Eastern Avenue, Baltimore, Maryland 21221.

As required by the Office of Zoning Administration & Development Management, I hereby provide written verification of the following:

- (1) Currently, there are **NO** violations of the Baltimore County Zoning Regulations existing on the subject property; and
- (2) This Petition **HAS** been reviewed by **JOHN LEWIS**.

Attorney for Petitioner: John B. Gontrum
Romadka, Gontrum & McLaughlin, P.A.
814 Eastern Boulevard
Baltimore, Maryland 21221
(410) 686-8274

RECEIVED
NOV 14 1995
BALTIMORE COUNTY
ZONING DEPARTMENT

RE: PETITION FOR VARIANCE
1606 Old Eastern Ave, NW/S Old Eastern
Ave, 191' N of c/l Stemmers Run Road
15th Election District, 5th Councilmanic

Balasia Pengalis
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 96-201-A

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of December, 1995, a copy of the foregoing Entry of Appearance was mailed to John B. Gontrum, Esquire, Romadka, Gontrum & McLaughlin, 814 Eastern Boulevard, Baltimore, MD 21221, attorney for Petitioner.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

GERARD JOHNSON #16

511C BOWLEY'S QUARTERS RD

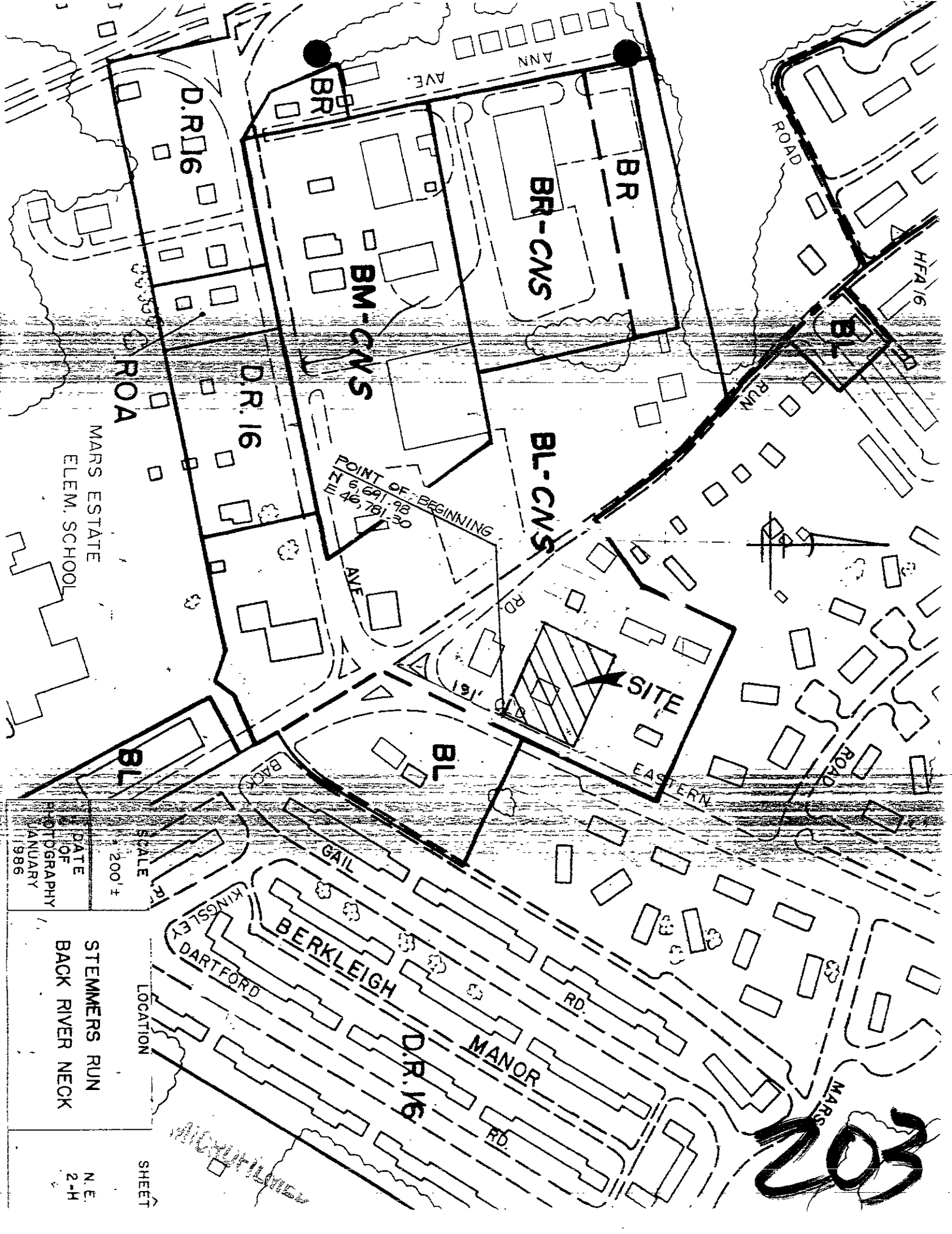
Willie Kiker

1003 Cord St Baltimore 21220

Clyde F. Hinkle

Bafitz & Assoc.
1249 Englehardt Rd. Baltimore
21221





DATE OF PHOTOGRAPHY
JANUARY 1986

STEMMERS RUN
BACK RIVER NECK

N.E.
2-H

LOCATION

SHEET

IN RE: PETITION FOR VARIANCE * BEFORE THE
W/S Old Eastern Avenue, 191' NE * DEPUTY ZONING COMMISSIONER
of the c/l of Stemmers Run Road (1606 Old Eastern Avenue) * OF BALTIMORE COUNTY
15th Election District * Case No. 96-201-A
5th Councilmanic District
Balasia Pengalis
Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance for that property known as 1606 Old Eastern Avenue, located in the vicinity of Back River Neck Road in Essex. The Petition was filed by the owner of the property, Balasia Pengalis, through Michael Pengalis, and the Contract Lessee, Eastern Cab Company, by Willie M. Kiker, through their attorney, John B. Gontrum, Esquire. The Petitioners seek relief from Section 426.1.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit tower-mounted antenna to not be enclosed within a fence or wall as required and to permit minimum setbacks of 155 feet and 190 feet in lieu of the required 200 feet for an existing wireless radio transmitting and receiving tower. The subject property and relief sought are more particularly described on the site plan submitted which was accepted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the hearing on behalf of the Petition were Willie Kiker, a representative of Eastern Cab Company, Contract Lessee, Clyde F. Hinkle, Professional Engineer with Baritis and Associates, who prepared the site plan for this project, Gerard Schenning, and John B. Gontrum, Esquire, attorney for the Petitioners. There were no Protestants present.

Testimony and evidence offered revealed that the subject property consists of a gross area of 25,200 sq.ft. (0.578 acres, more or less)

zoned B.L.-C.N.S. and is located on the west side of Old Eastern Avenue, just north of its intersection with Stemmers Run Road, immediately adjacent to the A-1 Crab House. The property is presently improved with a modular one-story office building and accessory parking lot. The property was formerly the site of the Thunderbird Drive-In fast food restaurant, which has long since been abandoned for some time. The Petitioner recently entered into a contract to lease the subject property to the Eastern Cab Company to operate its business from the existing modular building on the property. Testimony indicated that the subject property was proposed to be developed with a small strip shopping center; however, those plans did not come to fruition. The testimony and evidence presented at the hearing indicated that the use of the property by the Eastern Cab Company is on a limited basis until such time as the property can be more fully developed for commercial purposes. Testimony indicated that only five (5) cabs are stored on the property at any one time, and that all cabs are serviced off-site.

Further testimony revealed that the Eastern Cab Company relocated to the subject property approximately one year ago and that by agreement with Baltimore County, the instant Petition for Variance was filed to legitimize its operation on the site. It should also be noted that the Eastern Cab Company has operated in the Essex area for many years and that its previous location was almost directly across the street from the subject site, adjacent to the First Baptist Church. Due to an expansion of the Church, the Eastern Cab Company was forced to relocate its office. Fortunately, the subject lot was vacant and the Eastern Cab Company needed only to move across the street.

- 2 -

As part of its business operations, the Eastern Cab Company must utilize a wireless transmitting and receiving tower to communicate with its drivers. Shortly after relocating to the subject site, the Petitioners erected an 85-foot tall tower in the northernmost corner of the property, adjacent to the one-story modular office building. Due to the height and location of this tower, the requested variances are necessary. Within the Petition for Variance, the Petitioners requested relief from Section 426.1 to permit tower mounted antenna to not be located within a fenced or wall as required. Since their relocation to the site, the required fencing has been provided around the tower as more particularly shown on the site plan. Therefore, at the hearing, the Petitioners withdrew that portion of the variance request. As to the other relief sought, testimony indicated that strict compliance with the zoning regulations would have required the subject tower be located in close proximity to the restaurant on the adjoining property. The Petitioners testified that the proposed location of the tower maximizes its distance from neighboring D.R. zones and is less intrusive than if strict compliance were required.

On a site visit to the property, I found that the subject tower is barely visible from Old Eastern Avenue. Furthermore, given the size of the site, the proposed use by the Eastern Cab Company is minimal. No more than five (5) company vehicles will be stored on the property at any one time, all of which must be properly tagged and operable. There is only a small one-story modular office from which the Dispatcher will operate. As noted above, it appears from the testimony that the proposed use of the site by the Eastern Cab Company is limited until such time as the property can be more fully developed for commercial purposes. Therefore, I believe it appropriate to grant the variance as requested; however, I will restrict

- 3 -

the granting of these variances to ensure that the property is utilized to its greatest potential.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief; and,
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the pub-

- 4 -

lic health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 32nd day of January, 1996 that the Petition for Variance seeking relief from Section 426.1.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit minimum setbacks of 155 feet and 190 feet in lieu of the required 200 feet for an existing wireless radio transmitting and receiving tower, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their use permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.
- 2) The Petitioner is prohibited from storing any more than five (5) company cabs on the subject site. All cabs must be operable and properly tagged. Furthermore, the Petitioner is strictly prohibited from performing any automotive service work on these vehicles on the premises.
- 3) The variance for the radio tower are limited to the Eastern Cab Company, only. In the event the Eastern Cab Company should cease to operate its business from the premises, then the variance granted for this radio tower shall cease and terminate. Therefore, the variance shall not run with the land but is limited to the Eastern Cab Company, only.
- 4) Upon my inspection of the subject property, there appeared to be a small amount of junk and debris stored in the rear of the property. The Petitioner shall have all trash, junk and debris removed from the

premises within fifteen (15) days of the date of this Order, or prior to the issuance of any use permit.

5) Inasmuch as the current use of the property is for a limited time, it will not be necessary for the Petitioner to submit a landscape plan for review and approval by the Landscape Architect for Baltimore County. However, at such time as the property is more fully developed, a landscape plan will be required.

6) When applying for any permits, the site plan and/or landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 426.1.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit tower-mounted antenna to not be enclosed within a fence or wall as required, be and is hereby DISMISSED AS MOOT.

TMK:bjs

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County



Baltimore County
Zoning Commissioner
Office of Planning and Zoning

Suite 112, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-4386

January 23, 1996

John B. Gontrum, Esquire
Romadia, Gontrum & McLaughlin
814 Eastern Avenue
Baltimore, Maryland 21221

RE: PETITION FOR VARIANCE
W/S Old Eastern Avenue, 191' NE of the c/l of Stemmers Run Road
(1606 Old Eastern Avenue)
15th Election District - 5th Councilmanic District
Balasia Pengalis - Petitioner
Case No. 96-201-A

Dear Mr. Pengalis:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. Balasia Pengalis
1612 Eastern Avenue, Baltimore, Md. 21221

Mr. Willie M. Kiker, Eastern Cab Company
1606 Old Eastern Avenue, Baltimore, Md. 21221

People's Counsel

file



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 1606 Old Eastern Ave.

which is presently zoned BL - CNS

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 426.1.b to permit a tower-mounted antenna not within a fence or wall as required. Sec. 426.1b to permit a minimum setback of 155' and 190' in lieu of the required 200'.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)
Location of antenna as proposed maximizes distance from existing structures. Strict compliance with zoning regulations would place antenna in close proximity to restaurant facility in lieu of proposed less intrusive site location.

Property is to be posted and advertised as prescribed by Zoning Regulations.
I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and am to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchased/Lessee:

Eastern Cab Company
Type or Print Name
By: Willie M. Kiker
Signature
1606 Old Eastern Ave.
Address
Essex, MD 21221
City State Zipcode

Balasia Pengalis
Type or Print Name
Signature
1612 Eastern Ave.
Address
Essex, MD 21221
City State Zipcode

Attorney for Petitioner:
John B. Gontrum, Esq.
Type or Print Name
Romadia, Gontrum & McLaughlin, P.A.
Signature
814 Eastern Ave. 686-8274
Address Phone No.
Essex, MD 21221
City State Zipcode

OFFICE USE ONLY
ESTIMATED LENGTH OF HEARING
INTERESTABLE FOR HEARING
Next Two Months
REVIEWED BY: DATE: 11-9-95
uCR

ORDER RECEIVED FOR FILING
Date 1/23/96
By bjs

ORDER RECEIVED FOR FILING
Date 1/23/96
By bjs

ORDER RECEIVED FOR FILING
Date 1/23/96
By bjs

ORDER RECEIVED FOR FILING
Date 1/23/96
By bjs

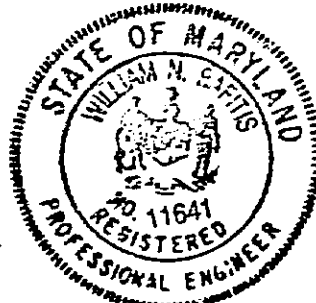


Bafitis & Associates, Inc.

ZONING DESCRIPTION FOR 1606 OLD EASTERN AVENUE

Beginning at a point on the West side of Old Eastern Avenue, which is 80 feet wide, at the distance of 191' Northeastly of the centerline of Stemmers Run Road, variable width. Thence the following courses and distances: North 66°24'28" West 180.00 feet, North 23°35'32" East 140.00 feet, South 66°24'28" East 180.00 feet, to the West side of Old Eastern Avenue, thence along said West side of Old Eastern Avenue South 23°35'32" West 140.00 feet to the point of beginning as recorded in Deed Liber 5456, Folio 636.

Containing 25,200 square feet or 0.578 acres of land. Being known as 1606 Old Eastern Avenue and located in the 15th Election District of Baltimore County, Maryland.



William M. Bafitis P.E., Md. Reg. #11641

Date

Civil Engineers / Land Planners / Surveyors • 1249 Englebert Road / Baltimore, Maryland 21221 / 410-391-2336

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 15th Date of Posting: 11/23/95
Posted for: Variances
Petitioner: Balasia Pengalis
Location of property: 1606 Old Eastern Ave.
Location of Sign: Tower and sign on property, both sides
Remarks:
Posted by: [Signature] Date of return: 12/1/95
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD. Nov 30, 1995
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Nov 23, 1995

THE JEFFERSONIAN,

A. Henrickson
LEGAL AD. - TOWSON

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204, on Thursday, December 14, 1995 at 9:00 a.m. in Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:
Case: 96-201-A
(Item 203)
1606 Old Eastern Avenue
15th Election District - 5th Councilmanic
Legal Owner: Balasia Pengalis
Contract Purchaser/Lessee: Eastern Cab Company
Variance: To permit tower mounted antenna not within a fence or wall as required; and to permit a minimum setback of 155 feet and 190 feet in lieu of the required 200 feet.
NOTES: (1) Hearings are handicapped accessible. For special accommodations please call 887-3353.
(2) For information concerning the file and/or hearing, contact this office at 887-3351.
11/27/95 Nov 23, 1995

BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE - REVENUE DIVISION MISCELLANEOUS CASH RECEIPT		No. 54332 DROP-OFF - NO REVIEW ITEM #203
DATE: <u>11/9/95</u>	ACCOUNT: <u>031-6150</u>	
<u>96-201-A</u>		AMOUNT: \$ <u>285.00</u> (WCR)
RECEIVED FROM: <u>Willie Kiker Inc.</u>		
FOR: <u>\$020 (Variance) + \$080 (Posting)</u> <u>1606 Old Eastern Avenue</u>		
25,200 sq. ft. 1565 S.L. - C.N.S. 8349180058MICHRC		\$285.00
VALIDATION OR SIGNATURE OF CASHIER [Signature]		

TO: STUDENT PUBLISHING COMPANY
November 27/23, 1995 Issue - Jeffersonian

Please forward billing to:

John B. Soutrum, Esq.
Soutrum, Soutrum & McLaughlin, P.A.
814 Eastern Avenue
Essex, Maryland 21221
656-6274

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 96-201-A (Item 203)

1606 Old Eastern Avenue
15th Election District - 5th Councilmanic
Legal Owner: Balasia Pengalis
Contract Purchaser/Lessee: Eastern Cab Company

Variance to permit tower mounted antenna not within a fence or wall as required; and to permit a minimum setback of 155 feet and 190 feet in lieu of the required 200 feet.

HEARING: THURSDAY, DECEMBER 14, 1995 at 9:00 a.m. in Room 118, Old Courthouse.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3351.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

November 16, 1995

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 96-201-A (Item 203)

1606 Old Eastern Avenue
15th Election District - 5th Councilmanic
Legal Owner: Balasia Pengalis
Contract Purchaser/Lessee: Eastern Cab Company

Variance to permit tower mounted antenna not within a fence or wall as required; and to permit a minimum setback of 155 feet and 190 feet in lieu of the required 200 feet.

HEARING: THURSDAY, DECEMBER 14, 1995 at 9:00 a.m. in Room 118, Old Courthouse.

Arnold Jablon
Director

cc: Balasia Pengalis
Eastern Cab Company
John B. Soutrum, Esq.

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3351.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

December 7, 1995

John B. Soutrum, Esquire
Romadka, Soutrum, & McLaughlin, P.A.
814 Eastern Avenue
Essex, MD 21221

RE: Item No.: 203
Case No.: 96-201-A
Petitioner: Balasia Pengalis

Dear Mr. Soutrum:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on November 9, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3351).

Sincerely,

W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)

BALTIMORE COUNTY, MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold Jablon, Director December 5, 1995
Zoning Administration and
Development Management

FROM: J. Lawrence Pilson
Development Coordinator, DEPRM

SUBJECT: Zoning Item #203 - 1606 Old Eastern Avenue
Zoning Advisory Committee Meeting of November 20, 1995

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item.

Air Quality

We request that the tower be enclosed within an 8' high fence to discourage trespassing and tower scaling by unauthorized individuals.

JLP:SR:sp

OLDEAST/DEPRM/TXTSBP

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: Nov. 29, 1995
Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E., Chief
Development Plans Review Division

RE: Zoning Advisory Committee Meeting
for November 27, 1995
Item No. 203

The Development Plans Review Division has reviewed the subject zoning item. If this Variance is granted, we recommend that a landscape plan be required.

RWB:sw



Maryland Department of Transportation
State Highway Administration

David L. Winstead
Secretary
Hal Kassoff
Administrator

Ms. Joyce Watson
Baltimore County Office of
Permits and Development Management
County Office Building, Room 108
Towson, Maryland 21204

RE: Baltimore County
Item No. 103 (VCR)

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small
Ronald Burns, Chief
Engineering Access Permits
Division

BS/es

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2250 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

Baltimore County Government
Fire Department



700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 11/20/95

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

LOCATION: DISTRIBUTION MEETING OF NOV. 20, 1995.

Item No.: SEE BELOW Zoning Agenda:

Gentlemen:

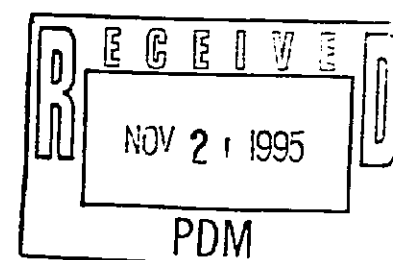
Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

B. The Fire Marshal's Office has no comments at this time, IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 194, 196, 197, 199, 200, 201, 202 & 203.

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File

Printed on Recycled Paper



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Permits and Development
Management

DATE: November 17, 1995

FROM: Pat Keller, Director
Office of Planning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning has no comments on the following petition(s):

Item Nos. 196, 197, 198, 199, 200, 201, 203 and 204

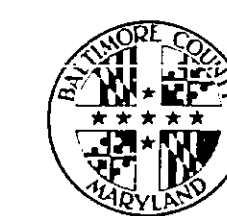
If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by: *Jeffrey Long*

Division Chief: *Sam L. Voss*

PK/JL

ITEM196/PZONE/2AC1



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

November 21, 1995

John B. Gontrum, Esquire
Romadka, Gontrum & McLaughlin
814 Eastern Avenue
Baltimore, MD 21221

RE: Preliminary Petition Review (Item #203)
Legal Owner: Balasia Pengalis
Contract Purchaser: Eastern Cab Co.
1606 Old Eastern Avenue
15th Election District

Dear Mr. Gontrum:

At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. The plan was accepted with the understanding that all zoning issues/filing requirements would be addressed. A subsequent review by the staff has revealed unaddressed zoning issues and/or incomplete information. The following comments are advisory and do not necessarily identify all details and inherent technical zoning requirements necessary for a complete application. As with all petitions/plans filed in this office, it is the final responsibility of the petitioner to make a proper application, address any zoning conflicts and, if necessary, to file revised petition materials. All revisions (including those required by the hearing officer) must be accompanied by a check made out to Baltimore County, Maryland for the \$100.00 revision fee.

Your accompanying drop-off statement indicates that this plan had some form of prior review by myself. Regrettably, I have no recollection of this site plan. However, the following information was found to be in need of compliance or correction for zoning hearing site plan compliance.

1. Clarify the nature of the existing use. The use referenced on the plan is "parking lot and trailer". The contract purchaser/lessee is Eastern Cab Company. A cab company is considered (by Section 101, Baltimore County Zoning Regulations [BCZR] definition) a service garage.

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
GERARD SCHEINER	5112 BOWEN QUARTERS RD
Willie Kiker	1023 Cord St Baltimore 21220
Clyde F. Hinkle	1329 Englehardt Rd. Baltimore 21244

John B. Gontrum, Esquire
November 21, 1995
Page 2

The B.L.-C.N.S. zoning requires a special exception public hearing for a service garage use. There is no zoning history to this effect on the plan nor is there any indication that a special exception is being requested. The potential for a zoning violation (existing or proposed) is such that unless this question is resolved clearly and definitively on the plan, staff cannot support the request for variance.

2. There is a 65-foot high wireless transmitting and receiving tower with a 85-foot antenna height shown on the plan, while the plan notes indicate the transmitting tower is proposed. Clarify this situation on the plan.
3. Per plan notes, a trailer permit was issued for this site in 1994, while a modular office is shown on the plan. Section 415.B (BCZR) permits trailers in a business zone only under certain conditions, which are not evident on the plan. Again, the potential for a zoning violation dictates BCZR compliance verification on the plan.
4. The variance request to allow deficient fence requirements is confused by the proposed 8-foot high stockade fence shown on the plan.
5. Note compliance with Section 426.1.C (BCZR) concerning EPA requirements on the plan.

If you need further information or have any questions, please do not hesitate to contact me at 887-3381.

Very truly yours,

John L. Lewis
John L. Lewis
Planner II
Zoning Review

JLL:scj

Enclosure (receipt)

c: Zoning Commissioner

DROP-OFF PETITION FOR VARIANCE

Petition for Variance for the Property located at 1606 Old Eastern Avenue, Baltimore, Maryland 21221.

As required by the Office of Zoning Administration & Development Management, I hereby provide written verification of the following:

- (1) Currently, there are NO violations of the Baltimore County Zoning Regulations existing on the subject property; and
- (2) This Petition HAS been reviewed by JOHN LEWIS.

Attorney for Petitioner:

John B. Gontrum
Romadka, Gontrum & McLaughlin, P.A.
814 Eastern Boulevard
Baltimore, Maryland 21221
(410) 686-8274

PE. PETITION FOR VARIANCE
1606 Old Eastern Ave. NW/S Old Eastern
Ave, 191' N of c/1 Stemmers Run Road
15th Election District, 5th Councilmanic
Balasia Pengalis
Petitioner
* * * * *

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
CASE NO. 96-201-A
* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

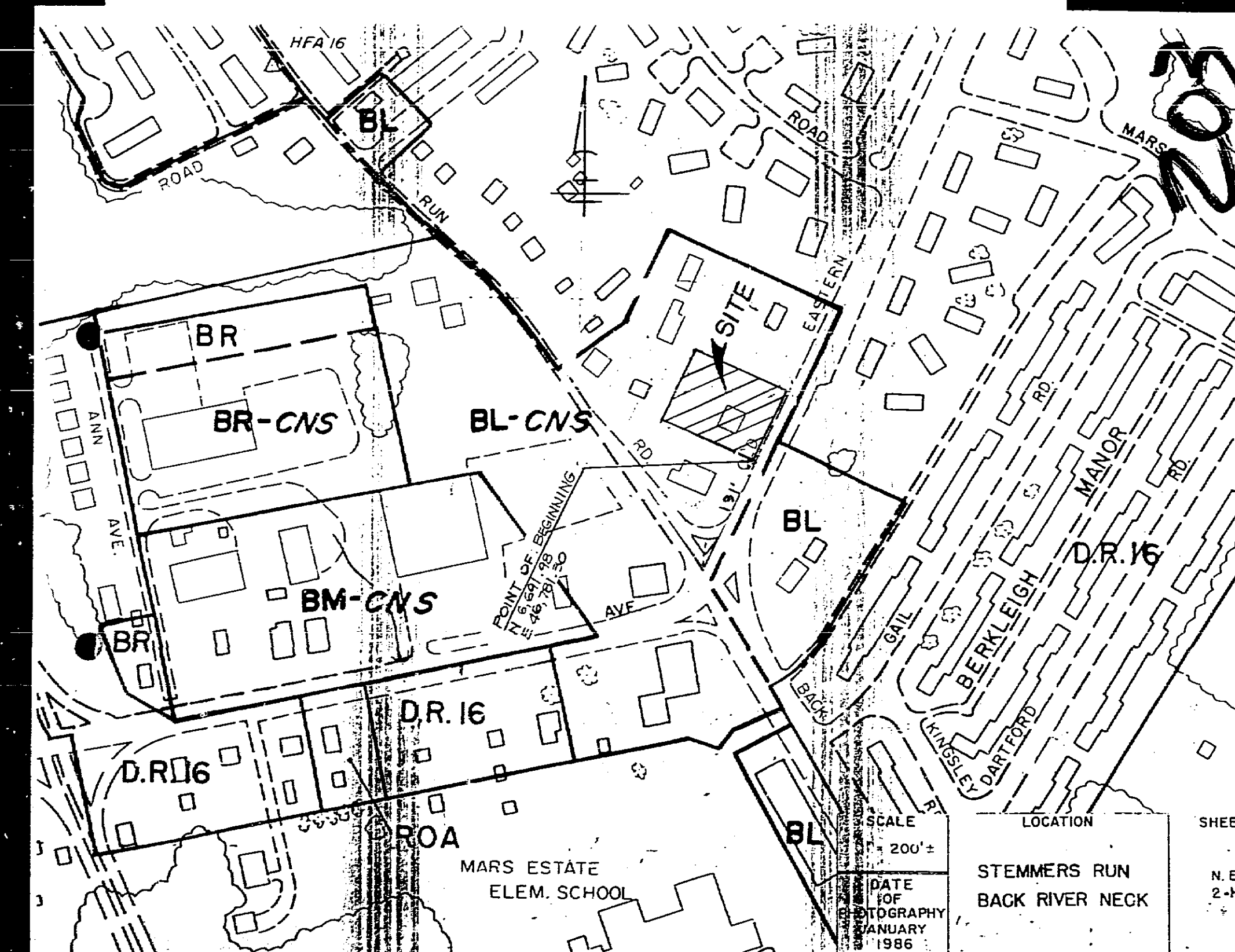
Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

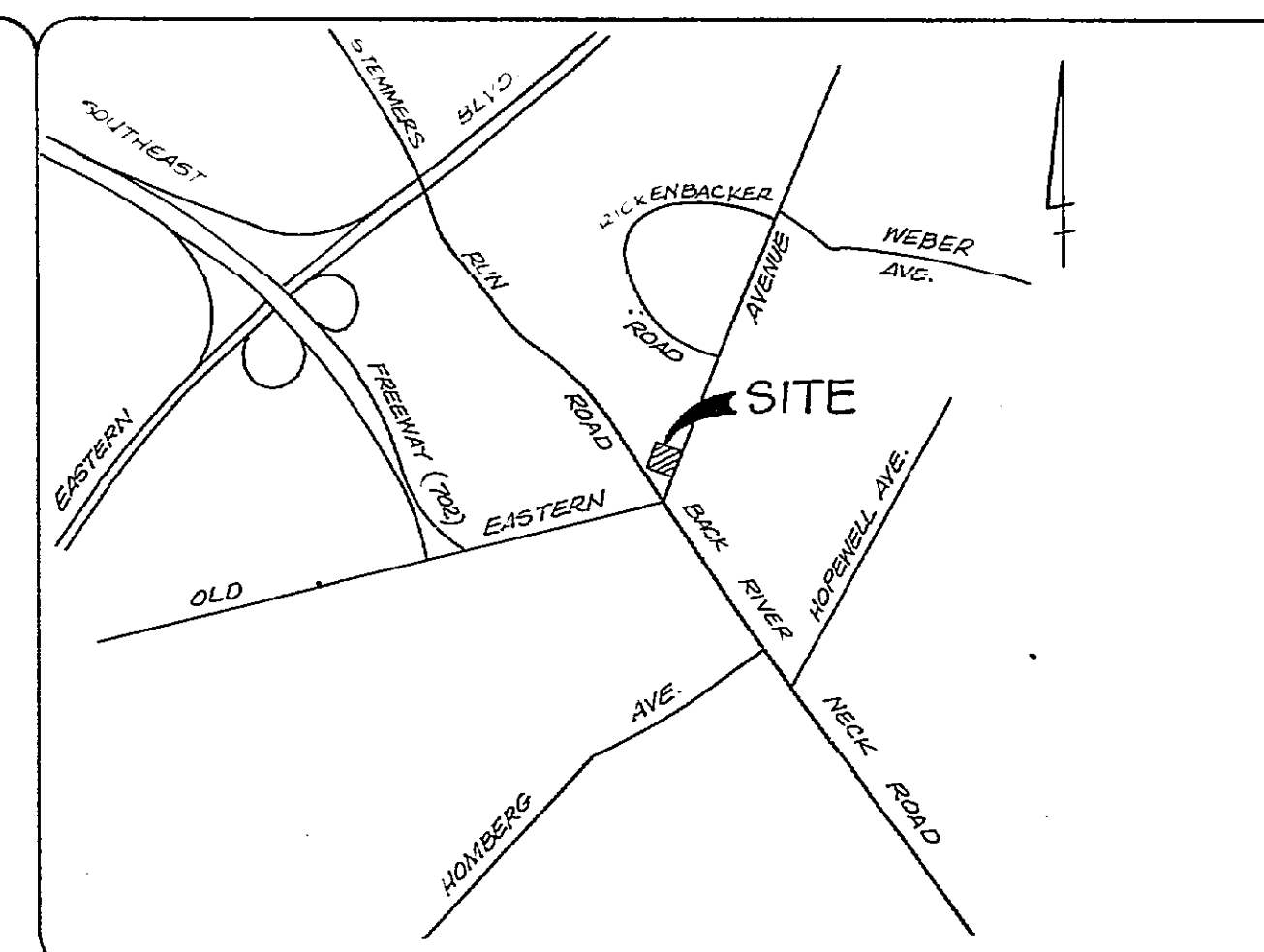
Carole S. Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of December, 1995, a copy of the foregoing Entry of Appearance was mailed to John B. Gontrum, Esquire, Romadka, Gontrum & McLaughlin, 814 Eastern Boulevard, Baltimore, MD 21221, attorney for Petitioner.

Peter Max Zimmerman
PETER MAX ZIMMERMAN





Notes:

1. There are no known previous zoning cases for this site.
2. This site is not situated within the Chesapeake Bay Critical Areas.

Owner: Balaasia Pengalis
1612 Eastern Avenue
Baltimore, Maryland 21221

Developer: Eastern Cab Company
1606 Old Eastern Avenue
Baltimore, Maryland 21221
1-410-687-3232

Election District: 15

Councilmanic District: 5

Deed Reference: 5456/636

Tax Map No.: 90

Property No.: 15-16-001270

Area of Site: 25,200 S.F. (0.578 Ac.±)

Zoning Map#: N.E.-2H

Existing Zoning: BU-CNS

Existing Use: Parking Lot & Office

Proposed use: Wireless Radio Transmitting Tower, Office
& Parking.

Previous Permits: Trailer Permit # 51 (June 17, 1994)

PETITIONER'S
EXHIBIT /

Amenity Open Space: None Required

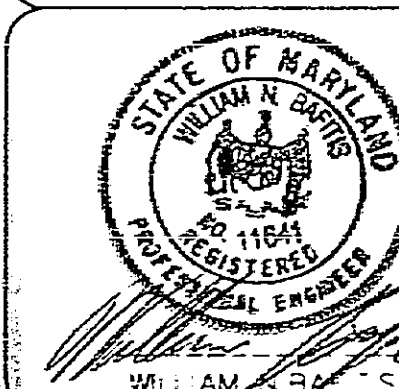


Bafitis & Associates, Inc. William N. Bafitis, P.E.

¹²⁴ See generally, e.g., Rose, *supra* note 1, at 141; Rose, *supra* note 2, at 336.

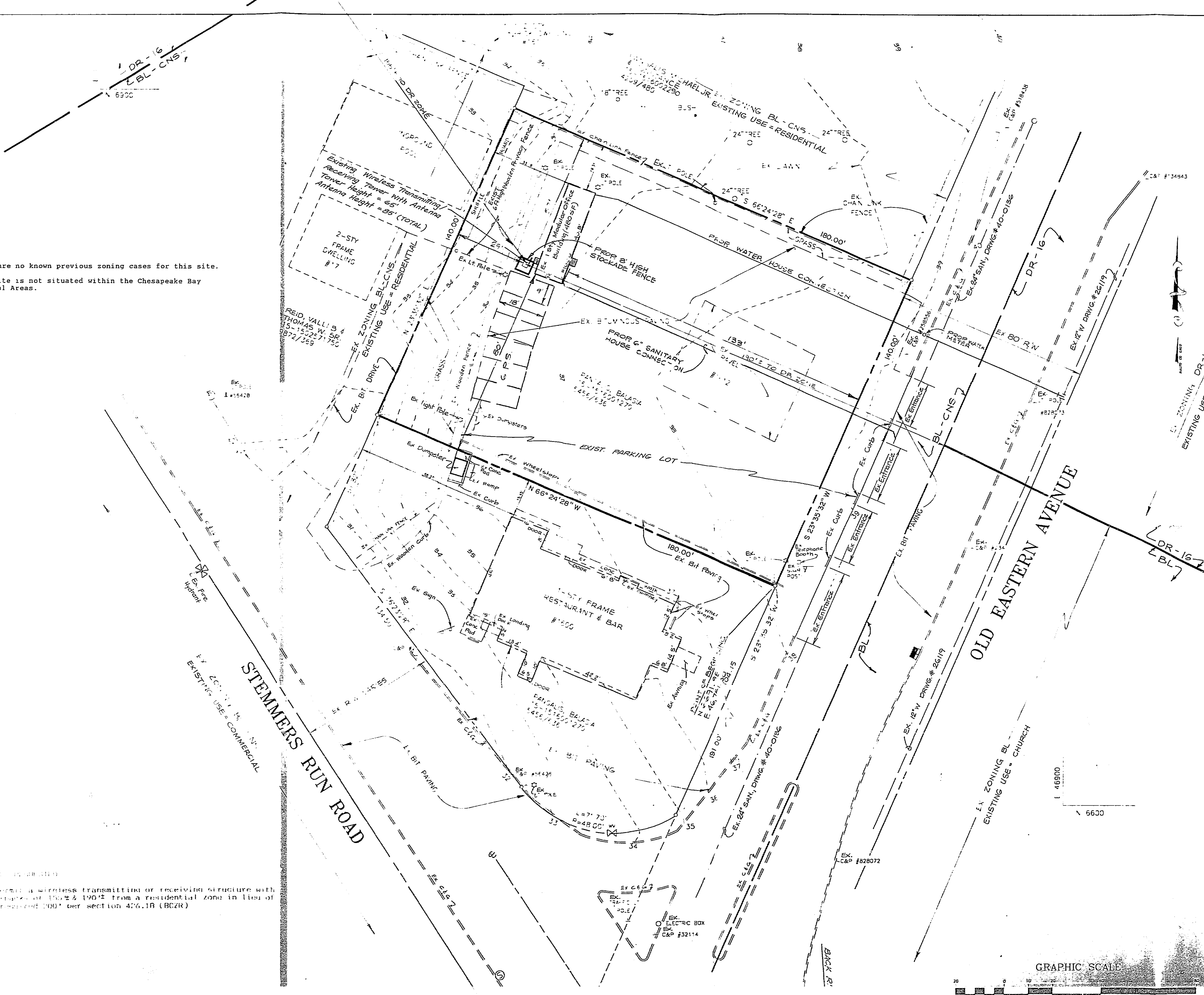
PLAT TO ACCOMPANY PETITION
FOR ZONING VARIANCES
FOR
#1606 OLD EASTERN AVENUE

BALTIMORE COUNTY, MARYLAND



SCALE	1" = 20'
PROJECT NO.	94018
DATE	8-23-95

NO	REVISIONS	DATE
203		



to permit a wireless transmitting or receiving structure with antennas of 155'± & 190'± from a residential zone in lieu of the required 100' per section 426.1B (BCZR)